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RCRA (Resource Conservation and Recovery Act) Implementation Plan, FY 87

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FY 87 RCRA Implementation Plan (RIP)

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FY 1986 RIP

Review Plan

☐ AA-OSWER ☐ OERR ☐ OSW ☐ OUST ☐ OWPE ☐ Regions ☐ OECM ☐ OGC ☐ OPPE ☐ Other *(Specify)*

This Request Meets OSWER Directives System Format

Signature of Lead Office Directives Officer: Joan Wade i.a. Date: 5-29-86

Signature of OSWER Directives Officer: Date:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 19 1986

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

MEMORANDUM

Interim Policy Directive # 9-1-20 CC-1

SUBJECT: FY 87 RCRA Implementation Plan

FROM: J. Winston Porter
Assistant Administrator

TO: Regional Administrators
Regions I-X

Attached for your use is the FY 87 RCRA Implementation Plan (RIP). The RIP provides guidance to the Regions and States for implementing the RCRA Subtitle C program in the coming fiscal year. In this RIP we have clearly identified the five highest priority RCRA activities. A major emphasis is on permitting of land disposal facilities by the statutory deadline (November 1988), and on ensuring proper closure of environmentally significant closing facilities. Other priorities are enforcement against ground water monitoring violators, permitting of new treatment and RD&D units, and conducting required inspections.

This RIP should be read in conjunction with the FY 87 Agency Operating Guidance (February 1986), the forthcoming revisions to the Interim Quality Criteria, and other guidance documents that are referenced. You will need to make difficult management and technical decisions to move the RCRA program forward. I encourage you and the States to make these decisions.

Regional and State assistance in developing this RIP was very helpful, and I will appreciate your continued assistance with the RCRA program.

Attachment

cc: Jack McGraw
Marcia Williams
Gene Lucero
Waste Management Division Directors, Regions I-X
Hazardous Waste Branch Chiefs, Regions I-X
Thad Juszczak
Pat Garvey

OSWER Policy DIRECTIVE #
9420.00-1

FY 87 RCRA IMPLEMENTATION PLAN

FY 87 RIP

OFFICE OF SOLID WASTE
AND EMERGENCY RESPONSE,
U.S. EPA

MAY 16, 1986

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A: Categorization Scheme
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Section 1

NATIONAL PRIORITIES

Program Direction

The goal of the Resource Conservation and Recovery Act (RCRA) program is the protection of human health and the environment. The annual RCRA Implementation Plan (RIP) provides direction, priorities, and guidance for implementing the RCRA Subtitle C program. The direction and priorities of this RIP should be reflected in the State programs and Regional work plans.

In FY 87, the RCRA program should be results oriented. The Regions and States should be issuing permits, enforcing to return handlers to compliance, taking appropriate steps to move facilities into corrective actions, ensuring adequate closures, and performing other actions to ensure protection of human health and the environment.

The Hazardous and Solid Waste Amendments (HSWA) provide the Regions and States with an ambitious agenda, such as issuing permits by mandated deadlines and addressing releases. The RCRA program treats as a highest priority the statutory deadlines for permitting land disposal (11/88), incineration (11/89), and treatment/storage facilities (11/92). Regions and States should address facilities that close on a priority basis, proceeding first with the most environmentally significant. Corrective action measures are an important aspect of the permit and closures work; compliance schedules and enforcement actions should be considered vital tools in moving the process.

The RCRA program is one of the most complex environmental programs. It requires technically difficult decisions and sustained management support to achieve statutory deadlines and environmental benefits. Management decisions must be made by balancing various site specific factors, keeping the focus on permits, closures, and enforcement actions.

Integrated use of all the management, technical, and enforcement resources at the Regions' and States' disposal will be necessary to achieve program progress. This RIP provides the framework for managing the regulated community while meeting statutory deadlines as well as achieving the greatest environmental results.

RIP Framework

The FY 87 RIP establishes a framework for determining priorities at the national and State levels for management of the regulated community. The framework consists of two components: 1) A set of high priority activities for which maximum progress must be made toward achievement; 2) a scheme for categorizing other handlers into relative priority groups. Both components are in Table 1.

The framework builds on the facility management planning (FMP) process. The FMP is the project management tool to integrate and schedule permitting and enforcement activities to fulfill all requirements for the environmentally significant facility or handler.

1) High Priority Activities

The list of high priority activities transcends the categorization of handlers. These activities must be carried out for all applicable handlers. Should a Region find that its resources, in total, are insufficient to address fully the high priority activities, the Region should notify Headquarters and provide an explanation before August 15, 1986. This explanation is to provide Headquarters with a better picture of the constraints facing the Region and States and to see whether accommodations can be made.

2) Categorizing Handlers for Relative Priority Groups

The purpose of categorizing handlers is to determine the relative priority of individual handlers for activities that go beyond the high priority activities. The Regions and States have considerable flexibility in categorizing handlers. The definitions of each category are not intended to be rigid. However, the Regions and States should document the basis for their categorization. We emphasize that the categorization process or activity should not be a large, resource-intensive effort.

Two major points are made about the effort to categorize handlers:

- Categorization is to be based on currently-known available information.
  No new data effort should be initiated to complete the categorization.

- The process of categorizing handlers should lead to mutually agreeable priorities reflected in State grant and Regional work plans.

The categorization may encompass all handlers. However, generators and transporters need not be specifically categorized. (See Attachment A for detailed explanation.)

State authorization and oversight activities are not included in the framework and are discussed in separate sections.

Table 1

Framework for RCRA Activities

High Priority Activities

1. Process and issue operating land disposal facility permits to meet the November 1988 permit deadline.

2. Identify and enforce against violations of Part 270 ground water monitoring requirements for land disposal facilities seeking an operating permit.

3. Especially at environmentally significant closures, ensure that closing land disposal facilities have an adequate ground water monitoring system; ensure that owners/operators implement closure plans and provide financial assurances.

4. Expedite the permit process for new and expanding treatment and incineration capacity, RD&D applications, and off-site commercial treatment facilities.

5. Conduct inspections mandated by HSWA and Agency policy.

Categories of Handlers for Priority Grouping

1. Handlers with known releases of concern and known human or sensitive environmental receptors.

2. Handlers with known human or sensitive environmental receptors and significant potential for a release.

3. Handlers with known releases and no receptors or handlers with no releases and no receptors.

Section 2

PERMITTING

Permitting efforts will focus on processing Part B's and issuing operating permits for land disposal facilities so as to meet the November 1988 permit deadline, and on facilities providing alternative treatment and disposal capacity to land disposal.

Joint permitting will continue, as outlined in RCRA Reauthorization Statutory Interpretation #5 (July, 1985). State grant work programs should detail State participation in implementing HSWA permitting requirements for which authorization has not been received. The State grant should establish state permit processing priorities. Such priorities should reflect both State and Regional ability to adhere to joint-issuance schedules.

Permit Deadlines

HSWA establishes a deadline of November 1988 for issuance of all operating permits to land disposal facilities. We expect the Regions and authorized States to take this deadline very seriously. EPA expects authorized States to use enforcement actions aggressively to support the permit process, particularly with respect to obtaining compliance with the ground water monitoring requirements in 40 CFR 270.14(c) (or the States' analogs). EPA's Compliance Order Guidance (August 1985) outlines a technical and legal approach to compliance which provides for an accelerated monitoring schedule to identify and characterize releases from regulated units, as required by §270.14. Permit denials are also an appropriate and recommended response when the applicant fails to furnish in full the information required by the Part B application (40 CFR 270.10(e)(5)).

This RIP provides sufficient flexibility for the Regions and States to address non-land disposal facilities with significant releases or significant closures. Regions will submit two-year, quarterly plans for land disposal permit issuance/denial and closure plan approval by August 15, 1986 to the AA/OSWER-National Program Manager. The two year plans are requested to ensure that they are consistent with national priorities and to see if there are opportunities for Headquarters to provide assistance that might accelerate the permit process for particular facilities. Where these plans anticipate that not all of the land disposal permits will be issued by the deadline, Headquarters will initiate discussions with the Region.

HSWA also imposes a deadline of November 1989 for issuance of all incineration facility permits. Each Region will submit a schedule by January 15, 1987, with quarterly projections for incineration facility permit issuance/denial between January 1987 and November 1989. Schedules should be submitted to the Director, Permits and State Programs Division, OSW.

The same criterion applies for these schedules as for the land disposal schedules. When a Region's schedule indicates that not all of their incineration facilities will be permitted by November 1989, Headquarters will initiate discussions with the Region.

Non-Land Disposal Permitting

Disposal capacity shortage due to the large number of closures, more stringent land disposal facility requirements, and the land disposal bans will have a dramatic impact on the methods used to handle hazardous wastes. This disposal capacity shortage will require increased emphasis on the processing of new alternative treatment and disposal permit applications. The processing of such applications are a high priority. Examples include new commercial incineration facilities, and existing facilities seeking to expand treatment and incineration capacity. Priority attention attention should be given to issuance of permits for the Armys' demilitarization of nerve agent munitions. Regions and States should issue incineration permits for the selected demilitarization facilities before January, 1988.

EPA will issue research, development, and demonstration (RD&D) permits to qualifying facilities in nonauthorized States and in authorized States where the State is not issuing a full RCRA permit. Expedited processing of RD&D applications will also aid in the development of safe alternatives to land disposal of hazardous wastes. The purpose of such a permit, however, must be to gather new information about the technical or economic feasibility of experimental activities. Permits must be tailored to the scope of the research proposal, and include those conditions necessary to protect human health and the environment.

Further opportunities for Regions and authorized States to permit alternative treatment facilities will occur with the issuance of the Subpart X regulations for miscellaneous units. The intent of the regulations will be to provide applicants with a set of standards specifically designed to permit hazardous waste management technologies which are not currently regulated under Part 264.

Regions and States should continue to process storage facility applications. Permit applications from the Defense Logistics Agency (DLA) should receive priority among storage facilities. To aid in permitting these facilities, DLA is developing a standard design and a model Part B application.

Public Involvement

Continued progress in implementing the expanded public involvement program should be demonstrated in FY 87. The goals of this program are to develop public understanding of and informed consent for actions taken by EPA and the States. Communities should be involved early in the permitting process. Public involvement activities should be implemented for

facilities targeted in FY 86 and FY 87 from the FMP process. (See Guidance on Public Involvement in the RCRA Permitting Program, January 1986.)

Regulatory Exceptions

There are a series of regulatory "exceptions" which EPA and the States will be processing. These include:

- Delisting petitions (§260.22)
- Requests for alternate concentration limits (ACLs) for hazardous waste constituents in ground water (§264.94(b))
- Surface impoundment retrofitting waivers (RCRA §3005(j)(2), (3), (4) and (13))
- Double liner variances (RCRA §3004(o)(2))
- Petitions for exemption from land disposal bans (RCRA §3004(d), (e) and (g))

The review process for these exceptions entails a multi-disciplinary assessment of the risks that would be posed by granting the exception.

1. Delisting Petitions

Delisting petitions will be reviewed by Headquarters.

2. ACLs, Surface Impoundment Retrofitting Waivers, and Double Liner Waivers

ACLs are determined as part of the RCRA permit process. Because of the technical complexity of the ACL determinations, attention to ACL decisions should be part of the Regions' permit oversight activities. Headquarters technical assistance will be available. The Regions and HSWA authorized States will have the lead for the granting of surface impoundment and double liner waivers in FY 87, with Headquarters technical assistance available as needed from the Permit Assistance Team.

3. Land Disposal Ban Petitions

Headquarters will process land disposal ban petitions. Regional and State assistance may be required to verify site-specific information contained in the petitions.

Section 3

CLOSURES

The Agency's objective at closing facilities is to minimize the post-closure escape of hazardous constituents into the environment and to take corrective action to remedy already existing environmental problems. Sections 3008(h) and 3004(u) of HSWA provide new and flexible tools for ensuring the environmental integrity of closing facilities. The FY 87 RIP focuses on achieving specific environmental results at closing facilities rather than on the means used to achieve the result.

Environmental Objectives at Closing Facilities

It is the Agency's goal at all closing facilities to:

- Ensure that closing land disposal facilities have adequate ground water monitoring and that any releases from units undergoing closure are detected
- Ensure that any releases to ground water from the units undergoing closure are characterized. Compel corrective action as necessary through a post closure permit, a §3008(h) order, or appropriate State authority
- Ensure that releases from solid waste management units (SWMUs) are identified and characterized; compel corrective action as necessary
- Ensure that all facilities required to submit a Part 265 closure plan do so in a timely manner
- Ensure through inspections and review of closure certifications that the approved plans are implemented properly and that the facility's financial mechanisms are not released prematurely

The decision as to how to achieve these objectives, and the priority that should be assigned to the action, should be decided through the Facility Management Planning process.

The Agency and this RIP recognizes that not all facilities can receive equal attention in FY 87. Given the November, 1988 deadline for operating permits and the large number of closing facilities, the Agency has chosen to focus on environmentally significant closing facilities to receive high priority actions. One goal at closed or closing land disposal facilities is to conduct RCRA Facility Assessments (RFAs) for at least 30% of these facilities by the end of FY 87. Regions and States should select this 30 percent based on the focus stated in the Corrective Action Section. As far as possible, a facility with a precarious financial status should receive

prompt attention in order to secure appropriate actions before bankruptcy or depletion of resources occurs. If a facility is not able to pay the costs of corrective action or closure, CERCLA should be considered.

To assist Regions and States in managing closures, the following principles should be considered:

Ground Water/Corrective Action Concerns At Closing Facilities

1. Determine Whether There Is A Release

The first task at closing facilities is to determine whether or not the units undergoing closure are releasing to ground water. Ways to accomplish this task including:

- Enforcing the interim status ground water monitoring regulations or compelling an accelerated determination of leakage based on sampling for site specific constituents (See approach in the Compliance Order Guidance (COG))

- Requiring the submission of improved ground water data as a condition of interim status closure (i.e., writing ground water monitoring into the closure plan)

- EPA/State/contractor sampling at existing wells to establish whether there is a release (assuming well location and construction is adequate to yield useful information)

- Compelling investigation of possible ground water contamination through RCRA §3008(a), §3013, or §3005(h) orders, or similar State authority.

Particularly useful at facilities closing because they cannot certify compliance with Part 265 ground water monitoring will be the enforcement strategy recommended in the COG. The COG outlines a technical and legal approach for compelling owners/operators to establish whether or not their units are leaking in a faster, more definitive manner than the program laid out in Part 265 (using accelerated sampling for actual constituents rather than generic indicator parameters).

The Compliance Order Guidance approach is only available at facilities legally subject to the Part 270 regulations (or State equivalent). Therefore, a facility's post-closure permit does not have to be a high processing priority in FY 87 to make the call-in a useful activity. Once the post-closure Part B submission due date has passed, enforcement officials can begin incorporating Part 270 citations and requirements into their ground water orders, consistent with the COG's accelerated approach for developing ground water data. In this way, the enforcement actions taken at closing facilities can help develop the basic ground water data and plans that the permit writer may need later for processing the post-closure application.

2. Characterize releases from units undergoing closure; take corrective action if necessary

Once leakage has been confirmed, Regions and States must ensure that any ground water problem discovered is fully characterized and action is taken if necessary. As noted in the August 27, 1985 memo from J. Winston Porter, "Ground water Quality and Closure", the Agency has a variety of tools available to ensure that potential ground water problems are characterized and remedied prior to the facility "exiting" RCRA. It may be desirable to use a mix of authorities to address particular problems at a facility.

The following factors should figure into decisions regarding whether ground water problems should be characterized and remedied at the time of interim status closure or afterwards:

- Closure by removal is an option for surface impoundments and waste piles. Since the quality of a unit's ground water is integral to its ability to satisfy the closure by removal standard, it is extremely important that any potential ground water problems are discovered prior to making crucial closure decisions. Facilities should not be considered "clean closed" until data from an adequate well system demonstrates that ground water is not contaminated. If ground water data collected prior to closure or during the closure process indicates leakage from a unit, the Agency considers a "clean closure" nearly impossible unless the migration is very limited and can be completely excavated and collected.

- Any unit that cannot remove all contaminated soil and ground water at the time of interim status closure is considered a "disposal" unit and is subject to post-closure monitoring and/or corrective action. The goal, at such units, is to compel monitoring for hazardous constituents to characterize the problem and to implement corrective action if necessary through a post-closure permit, or a RCRA §3008(h) order. Since "disposal" units are subject to post-closure monitoring, it is less essential that ground water problems are fully chacterized before closing certification. Nonetheless, where resources are available, Regions and States should compel facilities to characterize releases from disposal units through the use of a §3008(h) order and/or by enforcing the Part 270 ground water requirements in preparation for issuing a post-closure permit.

- In addition to the type of closure sought, Regions and States should take into account the environmental significance of any release discovered and the facility's financial viability. If the release is significant or a firm's financial status is deteriorating, Regions and States should place greater emphasis on characterizing the release and requiring corrective action (or interim measures).

Ensuring Quality of Interim Status Closures

Even though the Agency's corrective action objectives at closing facilities go far beyond the Part 265 closure process, as a short term goal Regions and States must ensure the quality of interim status closures. Regions and States should follow the principles outlined below:

- For closures involving removal of contaminated soil, extent of removal decisions should be based on sampling for actual constituents in soil. The constituents to be monitored should be some subset of Appendix VIII based on the composition of the waste.

- Facilities should be advised whenever a closure plan is approved or modified that the approval or modification does not absolve the facility of its corrective action responsibilities.

- Facilities with approved plans should be inspected and closure certifications reviewed before the Region or State releases the facility's financial mechanism. Where possible, inspections should be timed to coincide with critical closure activities such as installation of a cap. Compliance with approved closure plans and financial assurance requirements should be required.

Section 4

COMPLIANCE MONITORING AND ENFORCEMENT

Compliance monitoring and enforcement actions should be directed toward those handlers and those violations likely to present the greatest threat to human health or the environment.

In FY 87, RCRA enforcement should focus on the following activities consistent with the priority framework:

- Abating any release of a hazardous waste or constituents posing an immediate threat to human health or the environment (that is not addressed by CERCLA).
- Supporting issuance or denial of all land disposal facility operating permits.
- Pursuing a formal enforcement action against RCRA land disposal facilities with inadequate ground water monitoring systems.
- Under the corrective action program, conducting facility wide assessments to determine whether there are releases and the need for further investigation and/or corrective action. Initiating enforcement actions against facilities with high priority releases.
- Enforcing against closing land disposal facilities to require compliance with approved closure plans.
- Enforcing compliance with final orders, decrees, and permit conditions.
- Enforcing major HSWA requirements, including land disposal bans.
- Ensuring Federal facility compliance.
- Supporting criminal enforcement.

Inspections

Inspection priorities are governed by statutory requirements; the Agency's strong emphasis on ground water protection; support of the permitting process; and the importance of implementing corrective action. There are several different types of inspections. These include Comprehensive Ground Water Monitoring Evaluation (CME), Compliance Evaluation Inspection (CEI), and Case Development Inspection/Evaluation. (The July 19, 1985, memo, "RCRA Inspection Definitions", provides the elements and purposes of each inspection.)

Inspections in FY 87 are discussed in two categories: (1) Mandatory inspections which fulfill statutory requirements

and Agency policy and (2) non-mandatory inspections recommended to meet RCRA requirements. Inspections should be used, when necessary, to oversee and ensure compliance with an enforcement order or permit conditions. Regions and States may expand the scope of an inspection at a handler to address comprehensively all compliance concerns at the handler.

A. Mandatory Inspections

1. Handlers presenting immediate threat to health or the environment

Inspections should be conducted to provide necessary documentation for enforcement actions where handlers may present an immediate threat to human health or the environment.

2. Government facilities

Under RCRA §3007(c) and (d), EPA is required to conduct annual inspections of all facilities owned or operated by Federal, State or local governments. Inspections of Federal, State, and local facilities must be initiated by EPA, but may be conducted by EPA contractors. Although States may conduct inspections of Federal, State, and local facilities, such inspections cannot substitute for EPA's inspections.

3. Commercial facilities

In accordance with the CERCLA off-site policy (see May 6, 1985, memorandum from Jack McGraw, "Procedures for Planning and Implementing Off-Site Response Actions"), and any amendments, facilities receiving CERCLA wastes must be inspected within six months prior to receiving CERCLA wastes. In FY 87, such commercial land disposal and treatment facilities will receive two inspections each; at land disposal facilities at least one inspection must be as comprehensive as a CME. If the facility has not had a CME during the last six months of FY 86, the first inspection in FY 87 must be a CME, in order that CERCLA disposal decisions may be made using reasonably current ground water monitoring data. Commercial treatment and storage facilities receiving CERCLA wastes shall be subject to two inspections encompassing elements of a CEI and addressing facility environmental concerns.

The Agency's Hazardous Waste Ground Water Task Force inspections will count toward fulfilling the FY 87 inspection commitments.

4. Land disposal facilities

Agency policy is that each land disposal facility subject to ground water monitoring requirements will receive an annual inspection conducted by the Region or the State. Quality ground

water monitoring inspections are important. One-third of all land disposal facilities subject to ground water monitoring requirements will receive a CME in FY 87. The priorities for conducting CMEs in FY 87 are as follows: Facilities that have not yet received a CME; facilities where there is doubt as to the adequacy of the ground water monitoring system.

The RCRA Ground Water Monitoring Technical Enforcement Guidance Document (TEGD, 1986) provides detailed guidance on how to develop and assess the adequacy of ground water monitoring systems. Application of the TEGD will ensure that hazardous waste disposal facilities have effective ground water monitoring systems to identify and characterize releases. Emphasis should be placed on determining whether the facility triggered and should be undertaking assessment monitoring, as well as determining whether the facility has properly characterized any plume of contamination.

a. Permitted land disposal facilities

Permitted land disposal facilities must be inspected thoroughly for compliance with permit conditions including ground water monitoring, corrective action at regulated and solid waste management units, and HSWA requirements including land disposal bans, and minimum technology requirements.

b. Operating interim status facilities

Ground water monitoring systems at all land disposal facilities seeking an operating permit are to be brought into compliance with Part 270. Inspections must evaluate compliance with these requirements, outstanding enforcement actions including corrective action orders, and other applicable requirements.

c. Facilities where land disposal units are closed or closing

Inspections at these facilities must emphasize adequacy of ground water monitoring systems to detect and assess releases, compliance with enforcement orders including corrective action orders and must evaluate compliance with approved closure plans. In addition, inspections must evaluate whether the facility is operating closing land disposal units illegally or, if it has converted to generator status, whether it is storing hazardous wastes beyond 90 days.

5. Other TSD facilities (other than land disposal facilities)

a. Regardless of whether inspected in FY 86, the following must be inspected in FY 87: all permitted facilities within twelve months of receiving a permit and all TSD facilities that are not continuing to operate as a hazardous waste facility.

b. Inspections must be conducted at the remaining fifty percent of all non-land disposal TSD facilities not inspected in FY 86 to ensure that all facilities receive inspections by the end of the FY 87 biennial cycle, as required by RCRA §3007(e).

6. Generators and Transporters

Inspections of at least four percent of generators and transporters are expected. (Small quantity generators are not included here.) State inspection and compliance activities for small quantity generators should reflect the EPA "Implementation Strategy for Generators of 100-1,000KG/Month."(April 1986)

B. Non-mandatory inspections

The Regions and States have discretion in determining what non-mandatory inspections to conduct, consistent with environmental and programmatic priorities. The following are among those that are encouraged:

- Inspections to support the criminal program
- Inspections of non-notifiers (not including late notifiers operating under interim status compliance orders)
- Case development inspections when necessary to file high priority enforcement actions and to support existing actions
- Inspections of waste oil TSDFs, particularly processors, for compliance with 40 CFR Part 266 (promulgated in November 1985) and regulations to be published
- Additional generator and transporters inspections, particularly related to land bans

Enforcement

A series of policies were issued in FY 84 and FY 85 establishing the framework for a consistent, equitable, and responsive enforcement program. Sections 3008(h) and 3004(u) of HSWA have provided new and flexible tools to secure appropriate corrective measures in response to environmental problems. Accordingly, these tools can be used to abate threats posed by violations of regulatory requirements when appropriate.

Priorities for enforcement actions are:

1. Handlers which may present an immediate threat to health or environment

These handlers include those that have releases that may

present serious threats to human health or the environment. A number of enforcement tools are available to the Regions and States (e.g., RCRA §§3013, 3008(a), 3008(h), 7003, or State equivalent), depending on the circumstances. Consideration should be given to the use of CERCLA §104 or §106 response authorities or TSCA §7 authority, where appropriate.

2. Ground water monitoring facilities

Actions are to be brought against permitted facilities that are not in compliance with their permits. In addition, operating interim status land disposal facilities must be brought into compliance with Part 270 permit application requirements. Ground water monitoring at closing facilities must be adequate to detect releases at units undergoing closures, as discussed in the Closure section.

New violations will be discovered in FY 87. Penalties must be assessed against these violators in accordance with the RCRA Penalty Policy or appropriate State policies. Penalties should be large enough to be a deterrent and exceed savings accrued by a facility for noncompliance. States that do not have administrative penalty authority will need to address High Priority Violators by taking prompt judicial action or requesting EPA to take enforcement action. Where a State enforcement action is not timely and appropriate, EPA is to take enforcement action, especially for High Priority violations.

By the end of FY 87, most facilities with inadequate ground water monitoring systems subject to formal enforcement action in FY 86 should be under a final, formal action. Non-complying facilities are presumed to be candidates for judicial action or permit denial.

3. Corrective action

Regions, with appropriate assistance from States, must act aggressively to obtain corrective action at facilities. In FY 87 the emphasis is on the following activities.

- Formal enforcement shall be brought against violators of a permit condition or order requiring corrective action. Toward this end, oversight of corrective action is intensive.

- Regions and States should use enforcement authorities where necessary to obtain data needed to make corrective action decisions.

- Regions and States should compel interim measures when warranted.

4. Closing facilities

In addition to ground water monitoring, compliance with approved closure plans and financial assurances is important. Enforcement is a key component to assure corrective action at such facilities. As releases are identified or confirmed, Regions and States (where appropriate) should set a priority on the use of §3008(h) or State equivalent, to obtain interim measures and to compel a remedial investigation for corrective action.

5. Federal facilities

Authorized States will have the lead in enforcement for Federal handlers. However, the Region must take formal administrative action if a State declines or is unable to take formal action on a High Priority Violator. Certain information contained in inspection reports may not be subject to release due to national security requirements. These reports should be reviewed prior to release by the appropriate security officials of the Federal agency involved. This review should not delay enforcement action. Use of warning letters for High Priority violations is not considered appropriate enforcement action. The Region should issue a press statement concerning enforcement actions for Federal facility violations in accordance with the Federal Facility Compliance Strategy.

6. Criminal enforcement

Criminal enforcement activity receives emphasis in FY 87. Increased illegal disposal activity is anticipated as a reaction to diminished land disposal capacity resulting from closures, land disposal bans, higher disposal costs and illegal fuel blending.

7. Other enforcement activities

Other significant violations at handlers should be addressed. Attention should be taken to establish a strong enforcement presence (administrative and judicial) as major HSWA amendments become effective, including land disposal bans and waste oil (especially waste oil processing facilities.)

Section 5

CORRECTIVE ACTION

The goal of corrective action is to ensure remediation of hazardous releases associated with storage, treatment, and disposal facilities. The process for implementing corrective action at RCRA facilities includes various activities: The RCRA Facility Assessment (RFA), interim measures (where necessary), remedial investigation (RI), and corrective measures. Since most States will not be authorized for corrective action requirements under HSWA, EPA will have responsibility for administering and enforcing the corrective action requirements. However, the Regions should encourage State involvement, whenever possible, in order to prepare them for HSWA authorization.

The primary Federal authorities are RCRA §§3004(u) and (v) and §3008(h). In addition, authorities under §3008(a), §3013 and §7003 may be used to secure appropriate action. CERCLA and TSCA (§7) authorities may also be employed, consistent with Agency guidance. Use of equivalent State authorities is encouraged where appropriate. Corrective action activities may be conducted during interim status, permitting, and closure stages. All hazardous release problems associated with the facility should be investigated at one time, whenever possible.

It is important to understand that corrective action can occur through environmental prioritization and compliance schedules. In FY 87, the corrective action program should focus on land disposal facilities, consistent with the priority framework. Among closing facilities, those that lost interim status pursuant to RCRA §3005(e)(2) and (3) should receive particular attention. In addition, Category I storage and treatment facilities should receive a priority for corrective action. As facilities move into the corrective action process, they will require significant Regional and State (where appropriate) oversight to ensure the substantive adequacy of the actions they undertake.

RCRA Facility Assessment (RFA)

The RCRA Facility Assessment (RFA) was identified previously as a preliminary assessment/site investigation (PA/SI). The RCRA PA/SI guidance is currently being revised based on the field tests, Regional comments, and policy decisions, and it will be reissued as the "RCRA Facility Assessment Guidance".

An RFA should determine the existence of a release and set priorities for further corrective action. General guidelines for who should conduct RFA's and how they can be accomplished by coordinating with other enforcement or permitting activities are provided in the October 16, 1985, memorandum from Marcia Williams and Gene Lucero, "FY 86 PA/SI Strategy: Addendum to the FY 86 RIP". In general, RFAs should be conducted prior to permit issuance or denial. By the end of FY 87,

RFAs should be completed at operating land disposal facilities scheduled for permitting by November 1988 and at 30 percent of closing land disposal facilities. If this goal cannot be accomplished, Regions must provide a rationale to Headquarters by August 15, 1986.

RFAs may be conducted by the State, EPA or a contractor and can be supplemented with data (especially sampling results) supplied by the owner/operator when possible. Where RCRA inspections are scheduled at facilities, especially at closing facilities, they may be expanded to assist in making a determination of whether there are releases or potential releases associated with the facility. Based on these inspections, the Region may compel the owner/operator to provide additional data using RCRA §3008(a) or §3013, or may proceed directly to compel an RI using RCRA §3004(u) or §3008(h).

Where there is no unit subject to permitting at a closing facility, the Agency cannot invoke RCRA §3004(u) to compel corrective action at swmu's. Facilities that fall into this category include: 1) Those where all units stopped receiving waste on or before July 26, 1982 and certified closure by January 26, 1983 (if later, facilities are subject to post-closure permits); 2) those where all units have successfully demonstrated closure by removal with no contamination and, thus, are not subject to post-closure permit requirements; and 3) storage facilities converting to generator status. Regions and States should perform an RFA at these facilities prior to releasing the firm's financial mechanism to see whether additional enforcement is warranted.

Interim Measures

Interim measures include a wide range of actions which may be taken to prevent releases or additional contamination and to reduce, abate, or remove the exposure threat presented by a release. Interim measures should be taken to accomplish these objectives while the more complex process of remedial investigation, remedy selection, and design and implementation of corrective measures are underway. Draft guidance on interim measures for corrective action was distributed to the Regional Offices. (See "RCRA §3008(h) Corrective Action Interim Measures Guidance", December 18, 1985.) At closing facilities with existing or potential hazards, where owners and operators have financial problems or are likely to have such problems in the future, interim measures can be used to obtain some measure of response action before the owner/operator becomes insolvent.

Remedial Investigation

The remedial investigation encompasses the characterization of releases and provides information necessary to determine remedies. Information gathered during the RFA and from ground-water monitoring at facilities triggering assessment monitoring will be helpful in determining priorities for compelling the remedial investigations. The Region should compel the owner/operator to proceed with an RI where releases have been identified, in order to determine the rate and extent of the release and the need for corrective action. It is expected that a number of RI's should be initiated in FY 87, either through orders or through schedules of compliance in permits.

Until RCRA guidance on RIs is developed, there are several existing sources of guidance which can be used to help determine the nature and scope of required owner/operator investigations. This guidance includes CERCLA RI guidance and the model phased order found in the RCRA Ground-Water Compliance Order Guidance. Some RCRA facilities, especially closing facilities, may in the future become CERCLA sites. For such facilities, RCRA corrective action investigations should be structured to be consistent with CERCLA requirements, so that transition from one program to the other will be expedited.

Where possible, the scope of corrective action activities should be as broad as necessary to address a facility comprehensively. In some cases, however, there may be limits in RCRA authorities that could preclude full facility assessments. In such cases, Regions and States should consider use of other authorities in conjunction with RCRA authorities to secure appropriate action (e.g., CERCLA, TSCA, or other State authority).

Selection and Implementation of Corrective Measures

The next phases of the corrective action process are analysis and evaluation of the data gathered during the RI and selection of a cleanup approach. The Agency reserves the discretion to require consideration of alternatives if the specific circumstances of the facility warrant it. The remedy must clearly demonstrate appropriate protection of human health and the environment. Once the appropriate measures are selected, they are designed, constructed, and maintained.

Corrective Action at Federal Facilities

The July 15, 1985 Codification Rule raised some issues regarding the definition of "facility" for corrective action at Federal facilities. A Federal Register notice was published on March 5, 1986, (51 FR 7722) which resolves three issues:

- Establishes that RCRA §3004(u) is applicable to Federal agencies

- Reconfirms the definition of "facility" as the entire site under control of the owner/operator

- Establishes that the owner of Federal lands is the individual Federal department or agency, rather than the U.S. government.

An additional notice (51 FR 7723-7724) announced our intent to develop regulations to address additional issues raised by Federal agencies:

- Ownership by sub-agency units (e.g., the four Branches within the Department of Defense)

- Principal ownership of hazardous waste facilities on Federal lands operated by private parties with partial property interests (such as mineral leases)

- National priorities for corrective action

Until these rules are promulgated, Regions and States should continue to process and issue permits to Federal facilities. Permit schedules of compliance for corrective action will be negotiated on a case-by-case basis.

EPA will issue enforcement orders under RCRA §3008(h), as appropriate, to initiate corrective action prior to issuance of the permit, following program guidance and the revised Federal Facility Compliance Strategy. Corrective action through enforcement must be under formal order. A compliance agreement is not appropriate. The Regions should also aggressively use the A-106 process to ensure that funding is available when required by the schedules of compliance.

Where agreement cannot be reached on the extent of or schedule for cleanup activities or where there are ownership questions that cannot be resolved, those questions should be referred to the Director, Permits and State Programs Division OSW, or to the Director, RCRA Enforcement Division, OWPE, as appropriate, for resolution.

Section 6

STATE AUTHORIZATION

The authorization goals in FY 87 are twofold:

1) Develop State authorities.
   States should develop legal authorities necessary to revise their programs consistent with the deadlines in the final State authorization Codification Rule (to be promulgated summer 1986).

2) Implement a quality RCRA program.
   By administering a quality pre-HSWA program, States can demonstrate that they should be authorized for additional elements of the RCRA program (particularly major HSWA elements).

Where authorized States must revise their programs in response to a change in the Federal program, current regulations require that they do so within one year (or two years if a statutory change is needed). Under the proposed clustering rule (51 FR 496, January 6, 1986), scheduled to be final in August 1986, States would have additional time to amend their programs.

States are not precluded from applying for authorization before the applicable deadlines. States which have been capably implementing the base RCRA program should be encouraged to seek authorization for the HSWA Amendments. (Note: Authorization is only available for those amendments for which implementing regulations have been promulgated and certain self-implementing provisions of HSWA already in effect.)

Regions should process official applications in a timely manner. Regions should continue to identify areas of the State programs that need strengthening. Progress in these areas will be expected prior to making decisions to authorize a State for the RCRA program. In addition to considering past performance, performance expectations for the HSWA provisions will be established through revisions to the Quality Criteria and through EPA's experience in implementing the new requirements.

Section 7

GRANTS ADMINISTRATION

Grant Allotments

For FY 87, several changes have been made in the allotments. The population data was updated and the number of treatment, storage, and disposal facilities (TSDF's) was updated, using HWDMS data of April 8, 1986. (The same codes used to retrieve SPMS data were used to retrieve data for the grant formula.) The amount of hazardous waste generated was not updated since it is still the most recent data available. Three other changes in the grant allotments were made.

First, we revised the last element of the formula:

$$\frac{0.2(\text{Regional pop.})}{(\text{US pop.})} + \frac{0.3(\text{Regional haz. waste gen.})}{(\text{US haz. waste gen.})} +$$

$$\frac{0.3(\text{Regional LD + Incin. Facil.})}{(\text{US LD + Incin. Facil.})} + \frac{0.2(\text{Regional S/T Facil.})}{(\text{US S/T Facil.})}$$

We revised that element to reflect more appropriately the program emphasis on land disposal and incineration facilities, by providing a weight of 30 percent for those facilities and a weight of 20 percent for storage and treatment facilities instead of 50 percent for all TSDFs, as in the past.

Second, allotments were prepared on a Regional, rather than a State-by-State basis. The previous formula provided an adjustment to ensure that no State received less than one-half of one percent of the total grant funds available. This adjustment is not required by statute or regulations; it is one instituted as a matter of policy to provide a minimum allotment for small States. This concept was retained in the Regional allotments by providing that no Region can receive less than 3 percent of the total amount available (excluding authorization bonuses).

The reason for the change to Regional allotments is to provide maximum flexibility to the Regional Administrators to provide funding 1) to activities which reflect national goals and priorities; 2) that is commensurate with individual State workloads; and 3) where it is desirable to accommodate special State initiatives. States will derive their individual allotments through negotiation with the Region. It is suggested that a State grant not be decreased by more than 12% from the FY 86 State grant amount. Regional Administrators do have the discretion, however, to set a State grant amount at a level that is deemed appropriate.

The third change is in the authorization bonuses. As before, funds will be reserved for bonuses. However, the amount of the individual bonuses changed as well as the rule for when a State becomes eligible for a bonus. In FY 87,

$750,000 will be held in reserve. Because of the "clustering" proposal (51 FR 496, January 6, 1986) which would allow States more time to make changes and the need to focus on the 1988 permit deadline, the amount being held in reserve is less than in prior years. Bonuses equal to 5 percent of the base FY 86 State allotment or $50,000, whichever is less, will be provided to States when they submit a complete, official application for all of the following HSWA provisions that appeared in the July 15, 1985, final Codification Rule:

- corrective action for prior releases, including financial responsibility (§3004(u) and (§3005(i))
- "omnibus" provision (§3005(c))
- exposure information (§3019)
- waste minimization (§3005(h))
- minimum technology requirements (§3004(o))

These provisions were selected as they are the major reasons for joint permitting. As provided by HSWA, the States need not apply for all the provisions in one application. However, the bonuses will not be released until all of these provisions have been included in a complete, official application, as determined by the Headquarters Review Team. Bonuses will be provided as follows until the reserve is depleted:

Authorization Oct. 1, 1986, to June 30, 1987	100% of bonus
Authorization July 1, 1987, to Sept. 30, 1987	75% of bonus

State grants will continue to require a 25 percent match, including the authorization bonus. Regional grant allotments and potential authorization bonuses are provided in Attachment B.

State Grant Work Programs

The FY 87 grants must be performance-based. This approach employs financial assistance as a management tool to promote effective State environmental programs and to ensure accountability. All work programs must include the following:

- Description of all activities the State will undertake, with associated resources explicitly identified; where reprogrammed grant funds directly contribute to the outputs, these funds should also be identified
- Measurable quarterly commitments
- Specific actions agreed to by EPA and the State in Letters of Intent to enhance the State's capabilities
- A commitment to provide accurate routine reporting information by the required deadline and to respond to unscheduled information requests in a timely manner
- Adjustment in activities, commitments and funding (a "reopener" clause) when situations arise requiring a reexamination of the grant work program (e.g., major new statutory or regulatory requirements or changes in a State's authorization status, or Gramm-Rudman-Hollings reductions)

RCRA §3011 grant funds cannot be used to implement the CERCLA program or to implement the UST program under Subtitle I of RCRA.

States wanting funds for small quantity generator programs must include in their grant work program the following:

- a description of how the State will utilize the education and outreach products developed by EPA or otherwise conduct outreach activities of their own
- a description of an inspection program tailored to identify generators most likely to present a hazard
- a description of an enforcement program designed to take high visibility enforcement actions to serve as an incentive to voluntary compliance

The Region should address in the FY 87 work programs instances where a State did not meet its FY 86 commitments or was administering its program in a deficient manner. States are responsible for notifying EPA in a timely manner of problems they experience or anticipate in trying to accomplish their outputs, so that EPA and the State can jointly identify actions to resolve those problems.

If a State relies heavily on the State Attorney General (A.G.) or other law officers in order to take timely and appropriate enforcement actions, funding should be provided. The grant work program must indicate estimated workload, resource needs, and how the other law officers will be used to take timely and appropriate enforcement actions. The A.G. should participate in the grant process through the lead Agency, but would not be made a party to the grant. However, in order to receive funding, both parties should be signatory to a Memorandum of Understanding or other subsidiary agreement to the grant. As a signatory to this agreement, the A.G. is expected to meet the "timely and appropriate" criteria for filing referred RCRA cases within the 60-day period. EPA will take into consideration unusual circumstances that may affect the A.G.'s ability to file within 60 days. As required by EPA grant regulations, the lead State agency will be held accountable through the grant oversight process, even though funds were passed through to the A.G.'s office.

Funds not awarded to any State may be reprogrammed into the RCRA Implementation Contract, the Technical Enforcement Support (TES) contract, or other programs which support activities consistent with national priorities (e.g., public participation and the Senior Environmental Employment (SEE) program). However, Regions should make every effort to award all grant funding to States for appropriate activities.

Copies of each State's grant work program must be sent to the Chief, State Programs Branch, OSW, immediately upon execution of the grant award document by the Regions.

State Program Oversight

It is important in FY 87 to periodically assess the States' progress against all grant work program and Memorandum of Agreement commitments. The frequency and method of review should be based on past performance of the State as well as problems identified by the Region. The Regions should look at the quality of the work States have done in the areas of permitting, closure and enforcement. EPA is developing several documents which should be available prior to FY 87:

- Revisions to the Interim Quality Criteria to reflect current policies and requirements more clearly
- Permit and Closure Quality Protocol

All States should receive at least one comprehensive on-site review. Regions have conducted reviews as frequently as monthly in States having performance problems. Protocols in the RCRA Evaluation Guide should be used in the mid- and end-of-year reviews. A copy of each final quarterly, mid-year, and/or end-of-year review report should be provided to the Chief, State Programs Branch, OSW, at the same time as it is transmitted to the State.

The Regions must have a mechanism to oversee State inspection activities and should target around ten percent of the State inspections for oversight. This can include joint inspections and/or independent EPA inspections. Regions should audit State inspection records more frequently than on an annual basis. On completion of oversight reviews, Regions and States must respond to the findings. Appropriate responses are discussed in Part III of the Quality Criteria.

Training

Training activities are eligible for funding under the RCRA §3011 grants. In FY 87, States are strongly encouraged to use their grant funds to provide necessary management and staff training. It is recommended that up to 5 percent of each grant be earmarked for training activities. The RCRA Implementation Contract may also be used to provide training, either with Regional contract resources or with reprogrammed State grant funds. If States plan to use grant funds for training, the grant work program must provide a training plan specifying the subject area, source, recipients (a general number, not name-specific), and cost of the training.

EPA is interested in establishing Hazardous Waste Management Training Institutes in each Region. These Institutes would provide training on a cost-sharing basis. The Institutes would be funded by the RCRA §3011 grant funds provided by interested States. Currently, the Institute at the University of Wisconsin is entering its third year. Johns Hopkins University was recently selected as the Region III Hazardous Waste Management Training Institute. For more information on the Institutes, contact the Office of Solid Waste.

Section 8

INFORMATION MANAGEMENT

EPA is expected to be able to provide information that demonstrates the viability of the Federal and State programs on which the public depends for protection from mismanagement of hazardous waste. Essential to fulfilling our responsibilities as the national RCRA program manager is our ability to obtain timely and accurate information from the Regions and States. Information provided to EPA is used to:

- identify handlers subject to RCRA requirements
- assist in setting national priorities
- measure Regional and State progress
- identify patterns and extent of noncompliance
- identify status of State permitting and enforcement programs
- identify status of facilities with permitting, enforcement, closure, and corrective action
- identify potential problems with our regulations
- provide data to support budget request (including State grant)
- enable EPA to respond to information requests

RCRA Reporting

The information items in the three reports -Status of Permit Application Report, Facility Status Sheet, and Compliance Monitoring and Enforcement Log -- are designed to fulfill the majority of Headquarters information needs. Identification of new reporting items is included in Attachment C. These new items should be included in the State grant work programs. Final forms with instructions and definitions will follow. It is not our intent to impose new reporting requirements based on the categorization scheme.

Information from the reports is submitted monthly and must be submitted by the States to EPA by the 20th calendar day of the month for the previous month's data. The Regions have an additional five working days to enter State data in HWDMS. Data for Regional activities must be entered in HWDMS by the 10th working day of the month for the previous month's data.

Where a Region decides that the required data does not provide timely or sufficient information, the Region may institute an expanded reporting program. As appropriate, the grant work program may increase the frequency of reporting as well as the information to be reported.

All authorized States must continue to provide the Regions with information on new hazardous waste handlers or existing handlers who are amending prior notifications or Part As. This information should be sent to EPA within 10 days of the State's decision to approve or accept the information.

States must submit to the Regions copies of significant land disposal inspection reports (CMEs, CEIs showing significant non-compliance, and other reports deemed necessary by the Region) and enforcement complaints, orders, and judgments regarding Class One violations of ground water monitoring, closure/post-closure, and financial responsibility at land disposal facilities, such that Regional files are sufficient to determine a facility's enforcement status. Regions must submit copies of these State enforcement actions and Regional enforcement actions to the Director, RCRA Enforcement Division, OWPE. For Federal facility violations, OWPE will inform the parent agency of the violations and remedies, where remedies are included in the enforcement action.

To help identify problem areas in HWDMS, we began a series of data audits in FY 86. These data audits will continue to ensure the availability and quality of data entered in HWDMS. (See memorandum from J. Winston Porter, "Schedule for HWDMS Data Entry", February 28, 1986.)

Strategic Planning and Management System

The Strategic Planning and Management System (SPMS) provides a mechanism for planning and reporting major program accomplishments. FY 87 measures and definitions are found in Attachment D. Only data which appears in HWDMS will be counted in R/C SPMS measures.

SPMS reporting will be in quarters (i.e., October-December, January-March, etc.). However, for each quarter there will be a one-month lag for State data. For example, the first quarter will include all data entered in HWDMS by January 15. Since most data for State activities occurring in December is not entered in HWDMS before January 25, first quarter data will not include State actions taken in December. Data is reported cumulatively, so December actions will be included in the next quarter's report, while State data from the last month of that quarter (i.e., March) will not be available. At the end of FY 87, Office of Management System and Evaluation will delay the issuance of the end-of-year SPMS report so that data from the full fiscal year from the Regions and States will be included. The one-month lag must be kept in mind when making SPMS commitments.

Schedule for SPMS Commitments In order to provide a period for review and negotiation between OSW, OWPE, and the Regions, draft commitments must be submitted by August 15, 1986, from each Regional RCRA Division Director to the Director, Permits and State Programs Division, OSW, and the Director, RCRA Enforcement Division, OWPE. The exception to these dates is for commitments related to beginning-of-year SNCs. Instructions for these commitments will be sent under separate cover.

Justification of Permit Schedule

All Regions must submit by August 15, 1986, a two-year and one quarter (i.e., from October 1986 to November 1988), quarterly plan for land disposal permits issued/denied and closure plans expected to be approved during this time period. These actions (i.e., permits issued/ denied and closure plans approved) indicated to occur during FY 87 will become the FY 87 SPMS commitments.

For those Regions who determine that there are insufficient resources to adequately address the high priority activities, Regions must submit an explanation with the land disposal plan. This explanation must include:

- an estimate of resources identified for each high priority activity
- an identification of which high priority activities are not being adequately addressed or addressed at all and an estimate of the percentage of facilities not being addressed
- an estimate of additional resources required to conduct these activities

Justification of RFA Schedule

For those Regions who anticipate being unable to perform RFAs by the end of FY 87 at the land disposal facilities expected to be permitted by November 1988 and 30 percent of their closing facilities, the Region must provide a chart indicating the number of RFAs planned to be conducted during FY 87 and the distribution of the RFAs among the following:

- land disposal facilities seeking a permit
- closing land disposal facilities
- incineration facilities seeking a permit
- closing incineration facilities
- storage/treatment facilities seeking a permit
- closing storage/treatment facilities

Conclusion

The goals set by RCRA are:

- To protect human health and the environment
- To reduce waste and conserve energy and natural resources
- To reduce or eliminate the generation of hazardous waste as expeditiously as possible.

Let us remember these goals in our actions as we move this program forward in FY 87.

ATTACHMENT A; CATEGORIZATION SCHEME

Handler Categories.

The purpose of categorizing handlers is to determine the relative priority for addressing individual handlers for activities that go beyond the high priority activities. "Environmental significance" has been used in the past as a criterion for determining priorities. However, this term was very broadly defined and, therefore, included most all land disposal facilities as well as a significant number of incineration facilities. The priority framework recognizes that EPA and the States must set priorities even among facilities classified as environmentally significant. The categories provide a way of making choices. Categories are defined as follows:

- Category 1: Includes handlers with known releases of concern and known human or sensitive environmental receptors
- Category 2: Includes handlers with known human or sensitive environmental receptors and significant potential for a release
- Category 3: Includes handlers with known releases and no receptors or handlers with no releases and no receptors

The categories may encompass all handlers. However, generators and transporters need not be specifically categorized except when they merit particular attention. The categories apply to facilities seeking permits and to closing facilities. They apply to treatment and storage, as well as some land disposal. Although most land disposal facilities will fall in the high priority activities, there will be some that can be placed in the categorization scheme. This categorization scheme is consistent with the Agency's initiative for managing for environmental results (MER).

The definitions of each category are not intended to be rigid. The Regions and States have considerable flexibility in categorizing handlers. The purpose of the categories is to provide a mechanism for the Regions and States to make choices about priorities, based on environmental significance and available resources. However, the Regions and States may want to consider additional factors in categorizing handlers. Such other factors may include: size of the handler, type of waste handled, compliance history, public concern, etc. Where factors such as these are used to support categorizion, the Region and State should document the basis for their categorization.

We want to emphasize that we do not envision a large, resource intensive effort to categorize handlers. For the few land disposal facilities, the Regions and States should build on the FMPs. In general, storage facilities should automatically go in Category 3, unless there is a known reason to categorize them otherwise. There are two additional points to be made about the categorization:

- Categorization is to be based on known information, such as responses to "swmu letters" that have already been evaluated, inspection reports, and initial screens for facility management plans. As more information becomes known about a handler, it may move up or down in the categorization and, thus, priorities will be adjusted. However, no new data collection effort should be initiated in order to complete the categorization. However, where there are critical data gaps for determining the regulatory obligation of the facility (e.g., corrective action), collection of this information must be scheduled. As this data is collected, it may affect the category assigned to the facility.

- In order to have mutually agreeable priorities reflected both in State grant work plans and in Regional work plans, Regions and States must agree on categorization.

In order for the priority framework to be used in developing FY 87 State grant work plans and Regional operating plans, the categorization should be completed and agreed to by the Regions and States in an appropriate time frame to accommodate the Grant process.

ATTACHMENT B: FY 87 RCRA GRANT ALLOTMENTS

FY 1987 Grant Allotments*
($ in thousands)

Region	Regional Ratio	FY 1987 Base Allotment
Region I	0.06112	3804.7
Region II	0.11932	7427.7
Region III	0.12234	7615.7
Region IV	0.14688	9143.3
Region V	0.22599	14067.8
Region VI	0.13133	8175.3
Region VII	0.04170	2595.8
Region VIII	0.03000	1867.5
Region IX	0.09132	5684.7
Region X	0.03000	1867.5
Total	1.00000	$62,250.0**

* The allotments reflect the President's FY 1987 budget request to Congress. The allotments could change based on the actual appropriation or subsequent budget adjustments (e.g., Gramm-Rudman-Hollings cuts).

**Total grant amount is $63 million; $750,000 is being held in reserve for authorization bonuses.

FY 1987 Potential Authorization Bonuses
($ in thousands)

State	Potential Authorization Bonus*
REGION I	
Connecticut	50.0
Maine	13.6
Massachusetts	50.0
New Hampshire	13.6
Rhode Island	13.6
Vermont	13.6
REGION II	
New Jersey	50.0
New York	50.0
Puerto Rico	30.9
Virgin Islands	13.6
REGION III	
Delaware	13.6
Maryland	38.0
Pennsylvania	50.0
Virginia	50.0
West Virginia	29.7
Dist. of Columbia	13.6
REGION IV	
Alabama	46.5
Florida	50.0
Georgia	50.0
Kentucky	35.8
Mississippi	24.6
North Carolina	50.0
South Carolina	49.8
Tennessee	50.0
REGION V	
Illinois	50.0
Indiana	50.0
Michigan	50.0
Minnesota	33.9
Ohio	50.0
Wisconsin	50.0
REGION VI	
Arkansas	21.7
Louisiana	50.0
New Mexico	13.6
Oklahoma	22.1
Texas	50.0
REGION VII	
Iowa	24.7
Kansas	21.6
Missouri	48.8
Nebraska	13.6
REGION VIII	
Colorado	20.3
Montana	13.6
North Dakota	13.6
South Dakota	13.6
Utah	13.6
Wyoming	13.6
REGION IX	
Arizona	19.2
California	50.0
Hawaii	13.6
Nevada	13.6
American Samoa	13.6
North Mariana Is.	13.6
Guam	13.6
REGION X	
Alaska	13.6
Idaho	13.6
Oregon	19.5
Washington	25.6

*A pool of $750,000 has been reserved for authorization bonuses. Bonus funds will be transferred to the Regions as States submit complete, official applications for final authorization for the five identified HSWA requirements, until the pool is depleted.

ATTACHMENT C: FY 87 RCRA REPORTING REQUIREMENTS

Attachment C

NEW FY 1987 REPORTING ELEMENTS

Closure

- Full vs. partial facility closure
- Closure by removal vs. closure with waste in place

Corrective Action

- Remedial Investigation imposed
- Interim measures required
- Interim measures completed

Permitting

- Surface impoundment retrofitting waiver requested
- Surface impoundment retrofitting waiver approved/denied
- Land disposal ban petition submitted
- Land disposal ban petition approved/denied
- ACL requested
- ACL approved/denied

Compliance Monitoring and Enforcement

Inspections

- Case development inspections

Violations/Problem-area

- Corrective Action

Enforcement Actions

- §3008(a) Administrative Complaint
- Civil Referral
- Final Judicial Order
- §3008(h) Corrective Action Administrative Complaint

Financial Responsibility

- Bankruptcy status of a facility

ATTACHMENT D: RCRA SPMS MEASURES

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

Program Area: RCRA Permitting and State Authorization

OBJECTIVE	MEASURES	SPMS CODE	FREQUENCY
Work with States to seek HSWA Authorization	State Authorization Measures		
	State submits official application for HSWA cluster.	R/C-1(a)	Q1,2,3,4 By Region
	EPA makes final authorization decision for HSWA cluster.	R/C-1(b)	Q1,2,3,4 By Region
Make final RCRA permit determinations by the statutory deadlines.	Permitting Measures (Report on the following information for land disposal, incineration, and storage and treatment.)		
	Public notice of draft RCRA permit issued.	R/C-2(a)	Q1,2,3,4 By Region
	Notice of intent to deny RCRA permit issued.	R/C-2(b)	Q1,2,3,4 By Region
	Notice of availability of closure plan issued.	R/C-2(c)	Q1,2,3,4 By Region
	RCRA permit issued. *†	R/C-2(d)	Q1,2,3,4 By Region
	RCRA permit denied. *†	R/C-2(e)	Q1,2,3,4 By Region
	Closure plan approved. *	R/C-2(f)	Q1,2,3,4 By Region

* This measure requires Regional targets for land disposal facilities only.

† Permits issued and permits denied are combined for one target. They will, however, be reported separately toward the combined target.

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

Program Area: RCRA Permitting and State Authorization

OBJECTIVE	MEASURES	SPMS CODE	FREQUENCY
	Corrective Action Measures (applies to facilities seeking operating permits and closing facilities)		
	RCRA Facility Assessment (RFA) completed for entire facility remedial investigation decision made.	R/C-3(a)	Q1,2,3,4 By Region
	Remedial investigation imposed. (Separate by entire facility or partial facility.)	R/C-3(b)	Q1,2,3,4 By Region
	RCRA corrective measures plan approved. (Separate entire facility and partial facility.)	R/C-3(c)	Q1,2,3,4 By Region
	HWDMS Quality Measure and Review °	R/C-4	Q1,2,3,4 By Region

° See definition section for explanation.

Definitions

R/C-1(a) State submits official application for HSWA cluster: The date the Region receives the complete official application. Where more than one application is submitted for different provisions in the HSWA cluster, the date reported is the date of the last application necessary to cover all provisions in the HSWA cluster.

R/C-1(b) EPA makes final authorization decision for HSWA cluster: The date notice appears in the Federal Register that final authorization for HSWA cluster is granted or denied. Where final authorization is granted at different times for different provisions in the HSWA cluster, final authorization is the date of the last authorization decision covering all provisions in the HSWA cluster.

R/C-2(a) Public notice of draft permit issued: The date the public notice of draft permit is issued.

R/C-2(b) Notice of intent to deny RCRA permit issued: The date the public notice of intent to deny RCRA permit is issued.

R/C-2(c) Notice of availability of closure plan issued: The date the public notice is issued.

R/C-2(d) RCRA permit issued: The date the RCRA permit is issued.

R/C-2(e) RCRA permit denied: The date the RCRA permit is denied.

R/C-2(f) Closure plan approved: The date State or EPA approves the closure plan following an inspection of the facility, a public notice of the plan and response to comments.

R/C-3(a) RCRA facilty assessment (RFA) completed for entire facility: When a decision is made to initiate a remedial investigation or that a remedial investigation is not necessary.

R/C-3(b) Remedial investigation imposed: When a permit or permit modification is issued which incorporates a requirement for a remedial investigation; or EPA or authorized State takes formal enforcement action to require a remedial investigation. Where a complete remedial investigation is required for an entire facility, report as an entire facility. Where the remedial investigation is phased to address different parts of the facility or different environmental media, "imposed" means to legally obligate the owner/operator to initiate the first phase of the remedial investigation; report as partial facility.

R/C-3(c) RCRA corrective measures decision made: Following completion of a remedial investigation, when a decision has been made either to initiate corrective measures (i.e. remedy selected) or that corrective measures are not necessary. Where corrective measures are determined to be necessary, corrective measures decision is considered made when the owner/operator has characterized the nature and extent of all releases at the facility and EPA or the authorized State has approved appropirate corrective measures (i.e. remedies) for all identified releases. Where corrective measures have been determined to be necessary: permit or permit modification is issued incorporating corrective measures program, or owner/operator is notified in writing by EPA or authorized States that the corrective measures plan prepared pursuant to an existing permit condition has been approved, or owner/operator receives EPA or authorized State approval to initiate corrective measures program, pursuant to an enforcement order. Report entire facility if the permit/order addresses the entire facility; report partial facility if the permit/order addresses less than the entire facility.

Definitions (cont'd.)

R/C-4 HWDMS quality measure: Precise wording is not available, however, specific data elements will be selected for review each quarter by the Regions and Headquarters. Records will be checked to ensure that all required fields all required fields are properly completed, that any prerequisite records exist, and that no duplicate records are present. Data fields will be examined for validity. Sequence of records will be reviewed to ensure that the chronological order of recorded events is logical. Other required fields will be reviewed to ensure that each field contains a valid code. Performance measures will be established (e.g., 95 percent of all facilities must meet criteria for permit data consistency).

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

Program Area: RCRA Enforcement

OBJECTIVE	MEASURES	SPMS CODE	FREQUENCY
Improved compliance of hazardous waste handlers with appropriate requirements under RCRA.	Universe of facilities		
	Specify the total number of land disposal facilities that are regulated.(1)	R/E-1(a)	Q1 By Region
	Specify total number of TSDFs, other than land disposal, that are regulated. (Do not include underground storage tanks, generators, transporters, notifiers carrying non-regulated status codes or state-only regulated handlers unless they are also TSDF.) (2)	R/E-1(b)	Q1 By Region
	Inspections		
	Target and report, year-to-date, the number of land disposal facilities that have received an inspection in FY 87. (Combined EPA/State target.)* (3)	R/E-2(a)	Q1,2,3,4 By Region
	Target and report, year-to-date, the number of TSDFs, other than land disposal, that have received an inspection in FY 87. (Combined EPA/State target.)*(4)	R/E-2(b)	Q1,2,3,4 By Region
	Target and report, year-to-date, EPA inspections of Federal, State, and local government TSDFs (including land disposal) that received an inspection in FY 87. (EPA target.)*(5)	R/E-2(c)	Q1,2,3,4 By Region
	Class I Violations		
	Report the number of land disposal facilities identified, year-to-date, as having one or more Class I violations.(6)	R/E-3(a)	Q1,2,3,4 By Region
	Report the number of TSDFs, other than land disposal, identified year-to-date, as having one or more Class I violations.(6)	R/E-3(b)	Q1,2,3,4 By Regi
	*This measure requires Regional targets.		

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

Program Area: RCRA Enforcement

OBJECTIVE	MEASURES	SPMS CODE	FREQUENCY
Return significant noncompliers to compliance.	Significant Noncompliance - Fixed Universe		
	Specify the number of land disposal facilities in significant noncompliance (SNC) at the beginning of the year (fixed universe).(7)	R/E-4(a)(1)	Q1,2,3,4 By Region
	Specify the number of these facilities that received formal enforcement action, prior to FY 87, addressing all SNC violations.(8)	R/E-4(a)(2)	Q1,2,3,4 By Region
	Report the number of these facilities that have received an initial formal enforcement action addressing all SNC violations. (Report EPA and State separately.)(9)	R/E-4(b)	Q1,2,3,4 By Region
	Report the number of these facilities that are under a final formal enforcement action that addresses all outstanding SNC violations. (Report EPA and State separately.)	R/E-4(c)	Q1,2,3,4 By Region
	Report the number of these facilities in physical compliance for all SNC violations regardless of how accomplished. (EPA and State combined report.)	R/E-4(d)	Q1,2,3,4 By Region
	Target and report, the number of these facilities that have not returned to compliance with all SNC violations and have not had a formal enforcement action initiated against them to resolve all SNC violations.(Separate EPA and State targets.)*	R/E 4(e)	Q1,2,3,4 By Region
	* This measure requires declining targets from the first quarter through the fourth quarter. All facilities must be addressed prior to the end of the fiscal year through enforcement and/or have returned to physical compliance.		

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

Program Area: RCRA Enforcement

OBJECTIVE	MEASURES	SPMS CODE	FREQUENCY
	Significant Noncompliance - Snapshot (10)		
	Report the number of land disposal facilities in SNC at this point in time.(11)	R/E 5(a)	Q1,2,3,4 By Region
	Report the number of land disposal facilities in SNC, at this point in time that have not had formal enforcement action initiated against them to resolve all violations that are causing the facility to be in SNC. Report by time elapsed from inspection.	R/E 5(b)	Q1,2,3,4 By Region
	° 135 days or less.	R/E 5(b)(1)	
	° 136 - 180 days.	R/E 5(b)(2)	
	° 181 days or more.	R/E 5(b)(3)	
	Federal Facilities - Snapshot		
	Report the number of Federally owned or operated land disposal facilities (including contractor-operated Federal facilities) that are in SNC, at this point-in-time.	R/E-6(a)	Q1,2,3,4 By Region
	Report the number of these facilities against which there is one or more formal enforcement action(s) addressing all SNC violations.	R/E-6(b)	Q1,2,3,4 By Region

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

Program Area: RCRA Enforcement

OBJECTIVE	MEASURE	SPMS CODE	FREQUENCY
	Enforcement Actions		
	Report the number of formal administrative enforcement actions issued, year-to-date, to TSDFs, not including § 3008(h), § 3013, and § 7003.(12) (Report separately EPA and by State.)	R/E-7(a)	Q1,2,3,4 By Region
	Report the number of formal administrative enforcement actions issued, year-to-date to TSDFs, under § 3008(h), § 3013, and § 7003.(13) (Report separately by EPA and State.)	R/E-7(b)	Q1,2,3,4 By Region
	Specify the number of State civil and criminal cases filed this quarter against Subtitle C handlers.	R/E-7(c)	Q1,2,3,4 By Region
	Note: EPA civil referrals will taken from the OECM docket system. EPA criminal actions will be tracked by NEIC.		
	Violation of Corrective Action		
	Specify the number of facilities that are not in compliance with corrective action requirements in a final administrative order, court judgment, or consent decree, or permit schedule of compliance.(14)	R/E-8	Q1,2,3,4 By Region

Definitions

(1) R/E-1(a) Does not include Class I UIC wells, certified clean closed facilities, and pre-HSWA State delisted and EPA delisted land disposal facilities.

(2) R/E-1(b) Does not include underground storage tanks, generators, transporters, notifiers carrying non-regulated status codes or State-only regulated handlers.

(3) R/E-2(a) Once inspected in FY 87, a facility should not be recounted in this category. This measure is intended to evaluate whether every facility has been addressed with a full compliance inspection under RCRA § 3007(c),(d) and (e). Inspections to be counted are CMEs and CEIs. (Includes Federal, State and local facilities.)

(4) R/E-2(b) Once inspected in FY 87, a facility should not be recounted in this category. This measure is intended to evaluate whether every facility has been addressed with a full compliance inspection under RCRA § 3007 (c),(d), and (e). Inspections to be counted are CEIs. (Includes Federal, State, and local facilities.)

(5) R/E-2(c) These numbers are a subset of the numbers targeted and reported in (a) and (b).

(6) R/E-3(a,b) This includes violations discovered through any means. (A facility can be counted only once, the first time a violation is discovered in FY 87.)

(7) R/E-4 SNC includes those land disposal facilities (operating, closing, and closed) in significant noncompliance for Class I violations related to groundwater, closure, post-closure, and/or financial responsibility requirements. This universe is set at the beginning of the fiscal year (FY 1987). Facilities do not enter or exit the fixed universe after October 1. Note that the FY 87 definition is the same as used in FY 86. Submit facility names in support of data.

(8) R/E-4 thru R/E-7 For the purpose of R/E 4-7 "formal enforcement action" includes: all § 3008(a) (administrative or judicial), § 3008(a) final orders, § 3013 orders, §3008(h) orders, § 7003 orders, other formal actions identified in footnote 9 and all equivalent formal State actions. To be "equivalent", a State action must be equal to Federal § 3008(a) complaint or be legally binding. This excludes notices of violations, warning letters or or agreements, etc.

(9) R/E-4(b) Initial formal enforcement action includes: filed administrative complaint or order or judicial complaint, criminal action or State equivalent that addresses all violations that placed them in SNC.

Definitions (cont'd.)

10) R/E-5 This measure is designed to identify the total number of land disposal facilities with at least one SNC violations at the end of each quarter. Include in the measure, the fixed universe, minus those facilities that have returned to and remained in compliance, and all SNCs identified to date in FY 87. (Report by total number and by name new facilities identified in SNC.)

11) R/E-5(a) A facility can be counted only once as being in SNC.

12) R/E-7(a) Includes state actions comparable to formal actions under § 3008(a) but does not include State actions comparable to actions under 3008(h), § 3013, § 7003.

13) R/E-7(b) Includes state actions comparable to actions under § 3008(h), § 3013, and § 7003.

14) R/E-8 Those facilities subject to corrective action as reported in R/C 3(b).

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